BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

ALICE S. MAGSON Claimant)
VS.))) Docket No. 198,925
MT. HOPE NURSING CENTER Respondent)))
AND	(
KANSAS ASSOCIATION OF HOMES OF AGING Insurance Carrier))

ORDER

Claimant requests review of the Preliminary Hearing Order of Administrative Law Judge John D. Clark entered in this proceeding on June 1, 1995.

ISSUES

The Administrative Law Judge granted claimant's request for medical compensation and temporary total disability benefits associated with an injury to the left hand. By implication, the Administrative Law Judge denied benefits related to an alleged injury to the left leg and knee. The issue now before the Appeals Board is whether claimant sustained personal injury by accident to her left knee as a result of an alleged work-related accident on July 7, 1994.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After a review of the entire record, for purposes of preliminary hearing, the Appeals Board finds as follows:

- (1) The issue now before the Appeals Board is whether claimant injured her left knee as a result of an accidental injury arising out of and in the course of her employment with the respondent. Therefore, the Appeals Board has jurisdiction to review the preliminary hearing findings of the Administrative Law Judge related to that issue under the provisions of K.S.A. 44-534a.
- (2) The findings of the Administrative Law Judge should be affirmed. Significant inconsistencies exist between claimant's testimony and the medical records that were

compiled by the various health care providers who treated claimant's injuries. In addition, the nursing home administrator, Ms. Patricia J. Kissick, testified that claimant told her on December 27, 1994, that claimant did not remember hurting her knee at work.

The Administrative Law Judge had the unique opportunity to observe and judge the demeanor and credibility of the claimant and the nursing home administrator when they testified. Based upon the evidence provided to date, the Appeals Board finds that claimant has failed to prove it is more probably true than not that she injured her left knee during a fall at work on July 7, 1994.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge John D. Clark entered in this proceeding on June 1, 1995, should be, and hereby is, affirmed.

Dated this	_ day of September, 1995.	
	BOARD MEMBER	
	BOARD MEMBER	
	BOARD MEMBER	

c: Dale V. Slape, Wichita, Kansas Jeffrey A. Chanay, Topeka, Kansas John D. Clark, Administrative Law Judge Philip S. Harness, Director

IT IS SO ORDERED.